

Appl. No. 10/694,562
Amdt. dated July 7, 2004
Reply to Office action of April 21, 2004

Comments on the Drawings:

Applicant appreciates the Examiner's approval of the drawings.

FEE STATEMENT

No additional fee is due because the number and type of newly added claims are the same as the number and type of originally presented, but now cancelled claims. Nevertheless, an appropriate authorization to charge or credit the deposit account of applicant's attorney is enclosed in the required duplicate original form -- to be used if necessary.

REMARKS/ARGUMENTS

Claims 1 to 20 are in the application.

Claims 1 to 20 stand rejected under 35 U.S.C. 103 as being unpatentable over United States 6,240,879 to Denesuk et al. (hereafter Denesuk) in view of United States 6,490,998 to Rocher (hereafter Rocher). This rejection under 35 U.S.C. 103 are respectfully traversed.

RESPONSE TO 35 U.S.C 103 REJECTIONS

Claims 1 to 20 stand rejected under 35 U.S.C. 103 as being unpatentable over Denesuk in view of Rocher. Not only are these references not properly combinable, even if they are assumed combinable for the sake of argument, applicant's invention still is not taught.

Applicant's layered structure providing an extremely durable pet toy is not disclosed or suggested by these references. The use of a bullet resistant material by Rocher does not suggest and cannot teach using such a material for a layer of the toy structure. Rocher suggests only the use of a bullet resistant material as a part of the EXTERNAL fastening device for securing a line to a pet toy. In view of applicant's clear disclosure of increased durability due to the layer of bullet resistant material within the pet toy, and the absence thereof from the references, this rejection is insufficient to prove obviousness. Accordingly, withdrawal of this rejection is respectfully requested.

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Even if these references are assumed combinable for the sake of argument, applicant's invention still is not taught. Denesuk and Rocher do not suggest one layer of bullet resistant material for applicant's purpose of entertaining durability. Accordingly, withdrawal of this rejection is respectfully requested.

Applicant's advantages are clearly disclosed, plainly discussed and heavily emphasized in applicant's claims and specification. These factors bring this application into the realm of U. S. v. Adams, 383 U.S. 39, 48-49; 148 USPQ 479, 482 (1966), which includes the following interpretation of the patent law:

"Novelty and nonobviousness, as well as utility, are separate tests of patentability. All must be satisfied in a valid patent.

"While patent claims limit invention, and specification cannot be utilized to expand patent monopoly, claims are construed in light of specification and both are read with a view to ascertaining the invention."

Furthermore, in applicant's more limited claims, the prior art makes no mention of applicant's two layers of bullet resistant material with material therebetween (Claim 18). pads shape as defined therein. The Examiner attempts to

CONCLUSION

Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

Applicant respectfully requests that a timely notice be issued in this case.

Respectfully submitted,

By: _____

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I hereby certify that this correspondence is being deposited by facsimile to (703)872-9306 addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on or before July 7, 2004.

Mathew R. P. Perrone, Jr. -- Depositor

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Date of faxing on or before July 7, 2004.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PRIMARY EXAMINER

Appl. No. : 09/955,692
Appl. No. : 10/694,562
Applicant : Margherita Jessie Arvanites
Filed : October 27, 2003
Title : DURABLE PET TOY

TC/A.U. : 3644
Examiner : Judith A. Nelson

Docket No. : Y3.0126

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

DEPOSIT ACCOUNT AUTHORIZATION

No fee is believed due with the enclosed amendment.

Nevertheless, you are hereby authorized to charge any deficiencies in that fee determination to my deposit account number 16-1375.

A duplicate original of this authorization is enclosed.

Mathew R. P. Perrone, Jr.

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